

COMMUNITY AFFAIRS

DIVISION OF HOUSING

State Rental Assistance Program

Adopted New Rules: N.J.A.C. 5:42

Proposed: January 18, 2005 at 37 N.J.R. 165(a)

Adopted: April 18, 2005 by Susan Bass Levin, Commissioner,

Department of Community Affairs.

Filed: April 25, 2005 as R. 2005, d.152 **with substantive changes** not requiring additional public notice and comment (See N.J.A.C 1:30-6.3) .

Authority: N.J.S.A. 52:27D-287.2

Effective Date: May 16, 2005.

Expiration Date: May 16, 2010.



Summary of public comments and agency responses: **Comments were received** from the following individuals and organizations: Martha Lewin, Executive Director of Women Rising; Marguerite Greenfield of Interfaith Hospitality Network for the Homeless of Essex County; Tim Doherty, Executive Director of Project Freedom; Ann Dudsak, Vice President of North Hudson Community Action Corporation; Lowell Arye, Executive Director of the Alliance for the Betterment of Citizens with Disabilities (ABCD); and The Reverend Elizabeth Hall of Homeless Solutions; Connie Pascale, Vice President of Legal Services of New Jersey; Edmund Murphy, Executive Director of the Supportive Housing Association of New

Public Comments to the State Rental Assistance Program Rules

Jersey; Kathleen Wood, Director of Hudson Branch for Heightened Independence and Progress; Diane Sterner, Executive Director of the Housing and Community Development Network of New Jersey; Mary Ellen Marino, Executive Director of the Mercer Alliance to End Homelessness, Daryn Martin, President of ACORN; Conor Fennessy, Director of Government Affairs for the New Jersey Apartment Association; Norman Smith, Housing Issues Workgroup for the New Jersey Statewide Independent Living Council; and Susan Rea for the Monmouth County Division of Social Services.

The Department of Community Affairs will adopt the rule without change in order to quickly serve those waiting for a rental subsidy. Many of the comments received by the Department require broader public discussion. Therefore the Department will propose new rules in the near future.

Public Comments to the State Rental Assistance Program Rules

Comment: Comments were received on limiting the access of senior citizens aged 65 and older to thirty (30) percent of the allocation as required by legislation, or reducing the set aside for seniors to twenty (20) percent of the allocation. Comment was also received that seniors should be included in the lottery process for the thirty-one (31) percent set aside for persons on the Department's existing Housing Choice Voucher Program waiting list, thus increasing access to the program for senior citizens.

Response: The Department will monitor the program during the first year of operation and analyze the population benefiting from the program. In year two the Department would consider amending the selection priorities if the analysis indicates this action is necessary. The senior set-aside of 30 percent is mandated by the legislation and can only be changed by an amendment to the legislation.

Comment: Several comments were received on creating a set aside for individuals with disabilities. One comment specifically suggested a set aside for individuals with disabilities between the ages of 18 and 62 years of age.

Response: The Department's local selection priority for the federal Housing Choice Voucher Program includes individuals with disabilities. A recent analysis of the Housing Choice Voucher waiting list found that 22.8% of the applicants have claimed the selection preference of a

Public Comments to the State Rental Assistance Program Rules

household that includes a person with disabilities. Therefore, a significant percentage of the applicants selected by the lottery are expected to include individuals with a disability.

Comment: The Supportive Housing Association of New Jersey recommended a 30% set-aside for persons with special needs, which include persons with disabilities, persons who are homeless or who have HIV/AIDS.

Response: The Department allocated SRAP vouchers based on the current needs of the state. Any changes in these set-asides will detrimentally impact individuals who are currently on our Housing Choice Voucher waiting list.

Comment: The Housing and Community Development Network of New Jersey commented that the proposed rules do not specifically mention how referrals for homeless families will be handled nor does it specify how the separate waiting list for this population will be developed.

Response: Suggested – The county Boards of Social Services will submit referrals of homeless households to the Department of Human Services (DHS) for preliminary consideration of the S-RAP. DHS will prioritize referrals to Department based upon need and funding availability. DHS will forward Preliminary Applications for S-RAP to Department on a weekly basis. The Department will process the

Public Comments to the State Rental Assistance Program Rules

applications and forward to the appropriate field office for processing. Once the set-aside for this population is exhausted a separate waiting list will be created.

Comment: The Monmouth County Board of Social Services commented that a minimum of 50% of SRAP funding should be set- aside for homeless individuals and households.

Response: The DCA will maintain the allocations described in the proposed rule. The Department allocated SRAP vouchers based on the current needs of the state. Any changes in these set-asides will detrimentally impact individuals who are currently on our Housing Choice Voucher waiting list.

Comment: The Monmouth County Board of Social Services questioned why senior citizens are receiving special consideration in the calculation of family share of rent.

Response: The Department acknowledges the Board's concern, however, experience has shown that working families have more earning potential than individuals on a fixed income i.e. seniors and disabled. Therefore, they have capacity to contribute more towards their rent and become self-sufficient.

Public Comments to the State Rental Assistance Program Rules

Comment: Monmouth County Board of Social Services commented that Homeless individuals, including the disabled should be eligible for SRAP.

Response: These populations are eligible for the program.

Comment: Legal Services and ACORN commented that the Department must establish a new, statewide waiting list for the program and the waiting list must remain open at all times.

Response: The Department will take the comment into consideration for future rule amendment. However, to immediately serve needy households the Department will use the existing waiting list.

Comment: ACORN believes that SRAP should utilize a first come first process rather than the lottery system to select applicants. However, if a lottery system is used ACORN members desire to personally observe the process.

Response: To expedite the program's implementation, the Department will utilize its existing Housing Choice Voucher waiting list. In addition, the lottery selection process is computerized and does not lend itself to observation.

Public Comments to the State Rental Assistance Program Rules

Comment: Legal Services believes that a new SRAP waiting list should be created. Specifically, they suggest that notification of the pending lottery be placed in all daily newspapers and given to all PHA's in the state as well as major community groups. Moreover, they want DCA to accept applications for 30 days.

Response: As previously stated, to serve the public, the Department will utilize its existing waiting list. The Department believes that the proposed lottery process will not be cost effective and will be administratively burdensome resulting in unnecessary delays.

Comment: Homeless Solutions believes that the Department should allocate an equal number of vouchers in every county to households currently on the federal Section 8 waiting list. The lottery process being proposed will unfairly favor urban areas and therefore it is unlikely that many Morris residents will get picked.

Response: The Department decided on a lottery process to equitably distribute the vouchers, based on need, to individuals on the federal Housing Choice Voucher waiting list. The number of vouchers allocated to each county is based on the county allocation of federal Housing Choice Vouchers. When a waiting list is open, anyone in the State can apply. Therefore, it's likely that residents of Morris County are on other county lists.

Public Comments to the State Rental Assistance Program Rules

Comment: Several comments suggesting the creation of a separate waiting list containing applicants from all PHA's in New Jersey were received.

Response: The Department will utilize its existing Housing Choice Voucher waiting list to immediately serve needy households.

Comment: Project Freedom would like the Department to amend the regulations so as to serve our most vulnerable citizens, those whose incomes are less than 30% of area median income.

Response: The current regulations reserve 75% of the vouchers for households with incomes up to 30% of area median income in three of the set-asides (existing waiting list, elderly and homeless families with children). The remaining 25% may assist households having incomes up to 40% of area median income. The Department wants to maintain this structure so that we can assist working poor households.

Comment: North Hudson Community Action Corporation and the New Jersey Apartment Association believe that the cap on the tenant income of 80 percent of area median income should not be reduced to 40 percent. In addition, Legal Services believes that SRAP should be made available to people making up to 50% of area median income. In addition, New Jersey Apartment Association desires the program to target families up to 80% of area median income.

Public Comments to the State Rental Assistance Program Rules

Response: It is the Department's goal to provide assistance to the most distressed households in the State. It is our experience that households making 41-80 percent of area median income can qualify for affordable housing programs without additional assistance.

Comment: Section 5:42-5.1.a. 5 is written in such a way that it is vague as to whether all or just one of the subgroups listed may have income up to 80% of area median.

Response: The Department has stated in the proposed rule that only families in place may have incomes up to 80% of the area median income.

Comment: The Monmouth County Board of Social Services commented that the general public has no idea what 30% of median income means. They suggest that the 2005 medians created by USHUD be included.

Response: The median income charts issued by HUD change each year and therefore should not be made part of the regulations. These figures will be part of the program materials.

Comment: The Monmouth County Board of Social Services is requesting clarification regarding eligibility for low-income households residing in other federally subsidized settings such as public housing.

Public Comments to the State Rental Assistance Program Rules

Response: State residents who do not currently hold federal Section 8 vouchers are eligible for the program.

Comment: The program currently provides a rental subsidy for up to five years with one two-year extension based on continuing circumstances. Several groups believe that the program should allow unlimited extensions based on continuing need, especially for the disabled. In addition, Legal Services and the Mercer Alliance to End Homelessness believe there should be no limits on SRAP assistance.

Response: The program was designed as a temporary rental assistance program to help assist low-income households in need of assistance. The Department believes that a five-year subsidy with a possible two-year extension is ample time for a working family to become self-sufficient. The Department will monitor the rate of spending to determine the feasibility of extensions for the disabled population.

Comment: The New Jersey Apartment Association has requested clarification on the family's request for an extension after the initial five-year term.

Response: The Department acknowledges the owner's desire to maintain their residents, however, the basic premises of SRAP is to offer temporary rental assistance, except for the set-aside for seniors (age 65 and over).

Public Comments to the State Rental Assistance Program Rules

Comments: Senior citizens are favored in section 5:42 – 2.6 voucher Length of Assistance.

Response: The Department designed SRAP as a temporary rental assistance program. The length of time for seniors was mandated by the legislation.

Comment: Legal Services suggests that all remaining family members will be able to continue to receive an S-RAP subsidy until the end of the current lease period under all circumstances, and the subsidy shall continue thereafter provided the remaining family members would otherwise be eligible for S-RAP assistance in their own right.

Response: The Department will monitor the impact of this section on program participants during the first five years of operation.

Comment: Several comments addressed the subsidy standards, specifically that the rule restricts a family of four to a two-bedroom apartment. It was further stated that this is in opposition to municipal occupancy codes.

Response: The Department of Community Affairs' subsidy standards provide for the lowest subsidy that will avoid overcrowding and will permit households to rent decent, safe and sanitary units with adequate space and security. Generally, there must be at least one bedroom or living/sleeping room of appropriate size for each two persons. Persons of

Public Comments to the State Rental Assistance Program Rules

opposite sex, other than a husband and wife or children under the age of seven years, will not be required to occupy the same bedroom or living/sleeping area.

These subsidy standards do not limit families from selecting the number of bedrooms of their choice, but factor into the calculation to determine the amount of subsidy that the program will contribute toward the total rent. The Department feels that the subsidy calculation should be based on the lowest number of bedrooms to adequately house the family. If the family opts to rent a larger unit they would incur the additional costs.

Comment: Legal Services commented that the calculation of SRAP subsidy should not be in the definition section but in a separate section that describes the manner in which subsidy benefits are calculated.

Response: The Department believes that the calculation of family share of rent located in the definition section is adequate. The Program's procedural manual will include a description of how the subsidy benefits are calculated.

Comment: Legal Services commented that loss of family income should be replaced with the following: "Extraordinary expenses or loss of income" meaning an unforeseen or unexpected expenses or income reductions of a significant nature. An increase in total expenses, or loss of income, or both, which reduces the amount of income available to meet housing

Public Comments to the State Rental Assistance Program Rules

expenses by 20% or more shall be considered extraordinary. Lesser percentages may also be deemed extraordinary after review on a case-by-case basis.

Response: The Department will retain the existing definition and monitor the impact of loss of family income upon the program participants during the first year of operation. Specifically, the Department will monitor the cost burden incurred by the households.

Comment: ACORN is suggesting that the program increase the tenant portion of the rent up to 50% of their income.

Response: The Department will maintain the tenant portion as stated since we believe 50% of a family's income will make the family severely cost burdened.

Comment: The New Jersey Statewide Independent Living Council and Heightened Independence and Progress stated that the regulations do not make provisions to exclude the income of live in aides.

Response: The Department will take this comment into consideration and monitor the impact of the income of live-in-aides on the subsidy level of the family.

Comment: The New Jersey Statewide Independent Living Council and Heightened Independence and Progress noted that the proposed

Public Comments to the State Rental Assistance Program Rules

regulations do not make provisions for disability-related work expenses and work incentives.

Response: The Department intends to maintain a streamlined program and limit SRAP deductions as stated. Although the Department recognizes the importance of this provision, the calculation of housing assistance is based on 25% of the disabled household's income instead of the usual 30% of the household's income. This was done to offset expenses such as disability-related work expenses and incentives.

Comment: The Monmouth County Board of Social Services requested clarification of 5:42 – 2.2-6-welfare assistance.

Response: Participants in SRAP will be required to contribute toward rent the amount defined in “calculation” of family share rent.

Comment: The Department should include a provision that would allow tenants to pay extra rent in order to defer the costs of a reasonable accommodation.

Response: The Department does not believe this type of provision would serve the needs of the participants. Costs associated with reasonable accommodation can be addressed on an individual basis.

Comment: Legal Services stated that voucher recipients should have an initial period of 60 days to search for an appropriate dwelling unit.

Public Comments to the State Rental Assistance Program Rules

Families unable to locate such housing shall be entitled to additional 60-day extensions provided that they can demonstrate an ongoing, diligent search for it.

Response: The Department believes that the existing time period for housing search is adequate and will maintain same. This time period is consistent with the Housing Choice Voucher Program.

Comment: The term "Suspension" should be replaced with "*Tolling*," since the latter is the word commonly used to describe the process identified in the definition.

Response: The Department will retain the definition as proposed, which conforms the definition cited in the federal regulations for the Housing Choice Voucher Program.

Comment: Legal Services commented that the payment standard should be redefined as follows, the payment standard means the maximum monthly rent subsidy payable on behalf of a voucher recipient and should be set at 110% of applicable fair market rent.

Response: The Department will utilize the Housing Choice Voucher Program payment standards for SRAP. The current payment standards range from 100% to 110% of the fair market rent. These payment standards were chosen based on cost efficiency in order to assist the maximum number of households.

Public Comments to the State Rental Assistance Program Rules

Comment: Legal Services recommends that Housing Quality Standards Inspections be conducted within ten days of receipt of the Request for Lease Approval.

Response: The Department recognizes the importance of timely HQS inspections and strives to conduct all inspections within a reasonable period of the request. This is consistent with federal guidelines for agencies administering more than 1,250 units. Due to the geographical area and volume of inspections required the Department couldn't guarantee that all inspections will be completed within ten days.

Comment: Legal Services stated that Subsection (b) under Housing Quality Standards should be supplemented with language providing that the Certificate of Occupancy (CO) is properly and lawfully issued. This change will clarify that both DCA and participating tenants may, in appropriate circumstances, challenge an unlawful CO used defensively by a landlord.

Response: The issuance of CO's is a municipal action and exceeds the authority SRAP staff. This does not preclude the potential tenant from challenging the CO.

Public Comments to the State Rental Assistance Program Rules

Comment: Legal Services stated that Subsection (a) under Denial and Termination of Assistance should be deleted. Given the critical shortage of affordable housing, the reliance of many businesses on low-wage immigrant labor, and the related increase in the number of overcrowded and illegal apartments, all immigrant families should be eligible for SRAP vouchers without limitation. At the very least, all immigrants who would be eligible for assistance under the analogous federal voucher rule (24 CFR 5.506) should be eligible for S-RAP vouchers. This approach would seem to be the minimum required by the statute, which requires the SRAP program to be comparable to the federal program.

Response: The Department will maintain this section as stated, which conforms with 24 CFR 5.506.

Comment: Legal Services suggested that Subsection (b) under Denial and Termination be amended as follows: that assistance may be denied or terminated at any time to an individual and/or family if a member of the family has or been convicted of any criminal activity which occurred on or near the premises, including drug-related criminal activity other than illegal use or possession of drugs, provided such criminal activity threatens the health or safety of the immediate neighbors of the premises or other tenants in the building. If the person so convicted has been incarcerated or is no longer living with the family, or has not been incarcerated but

Public Comments to the State Rental Assistance Program Rules

completed appropriate rehabilitation program, the remaining members of the family shall be allowed to retain the S-RAP voucher.

Response: The Department will maintain this section as stated, which conforms to the federal Housing Choice Voucher Program. Prior to program termination, a household in this circumstance will be provided an opportunity for an OAL hearing. Mitigating circumstances will be taken under consideration,

Comment: Legal Services suggested Subsection (c) of Denial and Termination of Assistance be amended to provide that it is applicable only to households terminated from the Housing Choice Voucher program for intentional program violations that occurred within three years of the proposed denial or termination of S-RAP assistance.

Response: The Department will amend the sentence fragment to state the following: Any individual who has been terminated from the Housing Choice Voucher program within the prior ten years will not be eligible for SRAP assistance. The Department does not want to specifically address program violations due to the subjectivity. The intent to violate program rules will be determined in an Office of Administrative Law hearing.

Comment: Legal Services suggested the Subsection (e) on Denial and Termination be amended to state that hearing rights apply to all instances of adverse action against a program applicant or recipient

Public Comments to the State Rental Assistance Program Rules

Response: The Department will take this comment into consideration, as written, Subsection (e) applies only to termination of assistance.

Comment: The New Jersey Apartment Owners Association requested clarification regarding the continuing penalty notice provision in section 3.1 (c).

Response: An owner would not be given a penalty notice if an extension has been given to correct a violation. A penalty notice is only given if a violation has not been abated once the time allowed has passed and the property has been reinspected.

Comment: The New Jersey Apartment Association recommended that DCA utilize absence from the unit of 90 consecutive calendar days as grounds for termination at 5:42 – 4.1.1 (g) and 5:42 – 5.1 (a)

Response: The Department's experience supports the 180 days as proposed in the rule. The elderly and disabled populations may need supportive care, however, they are frequently able to resume independent living within this time frame.

Comment: Homeless Solutions would like the Department to increase the number of project-based vouchers for special initiatives from 17 percent to 25 percent.

Public Comments to the State Rental Assistance Program Rules

Response: The Department allocated S-RAP vouchers, with the exception of the mandatory senior set-aside, based on the current needs of the State. Any changes in these set-asides will detrimentally impact individuals who are currently on our Housing Choice Voucher Program waiting list.

Comment: Several commenters believe that tenants eligible for project-based vouchers should not have incomes exceeding 40 percent of area median income.

Response: The project-based vouchers are targeted to households earning up to 40 percent of area median income. The Department may award vouchers to projects that have tenants already residing in them. These tenants can earn up to 80 percent of area median income. The Department will maintain this requirement as stated, since it does not want to displace anyone that is income eligible.

Comment: The Department should clarify what special needs populations will be served in the project-based set-aside. The Department should include individuals with intellectual and/or physical disabilities in the set-aside.

Response: The Department defines special needs as persons with mental illness, developmental disabilities, physical disabilities, HIV/AIDs,

Public Comments to the State Rental Assistance Program Rules

the elderly and victims of domestic violence. This definition is inclusive of individuals with intellectual and/or physical disabilities.

Comment: The Project-Based Voucher regulations should require that at least 5 percent of the units be physically accessible and 2 percent be designed to accommodate sensory impairments.

Response: This comment is beyond the scope of the SRAP rule and is governed by N.J.5:23 the Uniform Construction Code.

Comment: Homeless Solutions believes that the Department should add more specific language to the regulations which states that nonprofit housing developers/providers and LIHTC projects be the only sources of project-based vouchers. In addition, language on eligibility of the project sponsors should be included. Legal Services commented that non-profit organizations should receive not less 50% of the allocation.

Response: The Department will monitor the allocation of project based vouchers during the first year of operation and make any necessary revisions.

Comment: Section 5:42-5.1.2 lists the eligible uses for the project-based voucher program. It is very important to Homeless Solutions to be able to learn more about the practical process/instructions for how a nonprofit developer would be able to leverage this resource for a project.

Public Comments to the State Rental Assistance Program Rules

Response: Instructions for how a nonprofit developer would be able to leverage the project-based voucher program will not be included in the regulations, but in the program's procedural manual and application.

Comment: Legal Services stated that references to the "DCA/DYFS initiatives and other special needs" cited in the project based section should be deleted. Given the overwhelming need for vouchers, none of the S-RAP subsidies should be used to address other, separate governmental obligations. Housing assistance was promised to DYFS families as part of the child welfare reform effort; funding for such assistance should consequently be provided from the millions of dollars explicitly set aside for child welfare reform. In addition, the Housing and Community Development Network of New Jersey concurs with this position and recommends limiting the number of vouchers allocated to DHS and other related state agency programs.

Response: The Department is committed to assisting DYFS and special needs households and will maintain the section as stated. A portion of these funds were committed to the Child Welfare Reform Initiative

Comment: The Housing and Community Development Network of New Jersey requested DCA to limit the allocation of project- based vouchers to nonprofit applicants only.

Public Comments to the State Rental Assistance Program Rules

Response: The Department will allocate vouchers to projects based on their readiness to proceed. The Department recognizes the importance of nonprofits in the community and therefore has set-aside 50 vouchers for their use.

Comment: Legal Services suggested the addition of a new subsection addressing Family Breakup, in accordance with the provisions of 24 CFR 982.315

Response: The Department will make this modification and add a new section on Family Break-up in a new rule proposal.

Comment: Legal Services stated that there is no need to indicate the approximate number of vouchers in Subsection a. Additionally, Monmouth County Board of Social Services is requesting clarification on the number of vouchers assigned to each category.

Response: The Department will remove the approximate number of vouchers from this section since the number of vouchers available is dependent upon the funding and annual housing assistance payment costs.

Public Comments to the State Rental Assistance Program Rules

Comment: Legal Services made several suggested title and text changes throughout the document. In addition, the New Jersey Apartment Association noted inconsistencies in terminology and suggested additional clarification in the definition section.

Response: The Department will take these comments under consideration as it prepares future amendments to these rules. The suggested language changes do not affect the program operations.

Comment: Legal Services commented that the use of PHA in the definition section and elsewhere is confusing and this should be replaced by DCA.

Response: The Department will make this change in future amendments to these rules.

Comment: The New Jersey Statewide Independent Living Council and Heightened Independence and Progress suggested that the Department define the terms disabled and disability.

Response: The Department will incorporate the definition of disability as defined in the Administrative Plan for the Housing Choice Voucher Program in a future rule change.

Public Comments to the State Rental Assistance Program Rules

Comment: The New Jersey Apartment Association recommends that 5:42-4.1 (e) be revised to require that recertification be completed within 60 days before the expiration of the current lease agreement. In addition, the tenant must notify DCA and the landlord in writing 30 days before vacating the property.

Response: The Department begins its annual recertification process 120 days prior to the expiration of the current period, it is the family's obligation to comply with the recertification. In addition, the Department believes that the owner's lease will outline the tenant notification requirements.

Comment: The New Jersey Apartment Association requests clarification on procedures for moving a participant from SRAP to the federal Housing Choice Voucher Program.

Response: This process will be outlined in the program's procedural manual and will be controlled by federal regulations.

Comment: The New Jersey Apartment Association suggests that the program exclusively accept standard leases used by individual property owners.

Response: The Department does not require a special lease for SRAP.

Public Comments to the State Rental Assistance Program Rules

Comment: The Monmouth County Board of Social Services assumes that current Section 8 staff will administer the program. With the current housing crisis, it is hard to support monies going to administration rather than direct Services.

Response: It is violation of the federal regulations to use administrative fees from the Housing Choice Voucher funds to cover administrative costs for non-federal programs. It is therefore necessary to have an administrative set-aside.

Comment: Legal Services recommended a new section, which addresses federal regulations and state procedures governing basic program operations, be incorporated.

Response: Basic program operations are described in detail in federal and state regulations. All basic program operations will be addressed in the program's Procedural Manual.

Federal Standards Statement

A Federal standards analysis is not required because the adopted rules are dictated by State statute, and are not subject to any Federal requirements standards.

Full Text of the adoption follows.

Chapter 42

STATE RENTAL ASSISTANCE PROGRAM RULES

Subchapter 1. General Provision

5:42-1.1 OVERVIEW

(a) The purpose of these regulations is to implement a rental assistance program for low-income individuals or households, who are not currently holders of federal housing choice vouchers under the Housing Choice Voucher Program (formerly known as the "Section 8 Housing Assistance Program"). The program shall provide rental assistance grants, comparable to the federal Housing Choice Voucher Program and shall be terminated upon the award of a federal subsidy to the same individual or household.

1. Rental assistance grants will be "tenant-based" and "project-based."
2. 30% of the rental assistance grants will be reserved for senior citizens aged 65 or older who are not currently receiving a rental subsidy under the Housing Choice Voucher Program.
3. 17% of the rental assistance grants will be provided to homeless families with children.
4. 17% of the allocation under P.L. 2004, Chapter 140 will be reserved for project-based assistance for special initiatives under the State Rental Assistance Program that will include collaborations with the Division of Youth and Family Services (DYFS) and may include other special populations. Project-based assistance will be administered under NJAC: 5-42-5.
5. 31% of the rental assistance grants will be reserved for households currently on DCA's existing Housing Choice Voucher Program's waiting list.
6. 5% of the allocation will be utilized by DCA for administrative expenses.

State Rental Assistance Program Rules

5:42-1.2 Definitions

The following terms when used in this chapter, shall have the following 'meanings except when the context clearly indicates otherwise.'

"Annual Income" – Means the gross amount of income anticipated to be received by the family during the 12 months following the effective date of the examination or re-examination.

"Applicant (applicant family)". Means a family that has applied for admission to a program but is not yet a participant in the program.

"Calculation of family share rent". Family share of rent is 30% of their adjusted annual income; or 25% of their adjusted annual income for Elderly and Disabled head of household.

"Calculation of S-RAP Subsidy". – Means the difference between the tenant rent and the applicable DCA payments standard: DCA's payment standard ranges from the current HUD approved Fair Market Rent to 110% of the Fair Market Rent based upon bedroom size and housing market. The family is responsible for all rent payments in excess of the payment standard.

"Department" or "DCA"– Means the Department of Community Affairs

"Domicile". Means the legal residence of the household head or spouse as determined in accordance with State and local law.

"Eligible Deductions" means:

- Deduction for Elderly or Disabled head of household (\$400)
- Deduction for each household member who is under 18 (\$480)
- Deduction for the estimated cost of tenant paid utilities exclusive of cable and telephone. (The amount of deduction is based upon established DCA utility schedule chart.)

"Fair market rent (FMR)". Means the rent, including the cost of utilities (except telephone) as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing decent, safe and sanitary rental housing of modest (non-luxury) nature with suitable amenities.

"Family". Means a person or group of persons, as determined by the PHA, approved to reside in a unit with assistance under the program.

"Family rent to owner". Means the portion of rent to owner paid by the family.

"Family unit size". Means the appropriate number of bedrooms for a family, as determined by DCA.

"Housing Assistance Payment (HAP)". Means the monthly assistance payment by a PHA, which is payment to the owner for rent to the owner under the family's lease.

"Housing Quality Standards" (HQS). Means the HUD minimum quality standards for housing assisted under the tenant-based programs. See 24 CFR 982.401.

Initial rent to owner. Means the rent to owner at the beginning of the HAP contract term.

"Lease". Means a written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant.

State Rental Assistance Program Rules

“Loss of Family Income”. Means catastrophic expenses or 50% loss of family income. This will be reviewed on a case-by-case basis.

“Owner”. Means any person or entity with the legal right to lease or sublease a unit to a participant.

“Participant (participant family)”. Means a family that has been admitted to the DCA program and is currently assisted in the program. The family becomes a participant on the effective date of the first S-RAP contract executed by the PHA for the family (first day of initial lease term).

“Payment standard”. Means the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

“PHA”. Means a Public Housing Authority

“Premises”. Means the building or complex in which the dwelling unit is located, including common areas and grounds.

“Private space”. Means the portion of a contract unit in shared housing that is for the exclusive use of an assisted family.

“Rent to owner”. Means the total monthly rent payable to the owner under the lease for the unit. Rent to owner covers payment for any housing services, maintenance and utilities that the owner is required to provide and pay for.

“Single Room Occupancy Housing (SRO)”. Means a unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities.

“S-RAP contract” means State Rental Assistance Payments contract.

“Suspension” means stopping the clock on the term of a family’s voucher for such period as determined by PHA, from the time when the family submits a request for PHA approval of the tenancy, until the time when the PHA approves or denies the request.

“Tenant”. Means the person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

“Voucher holder”. Means a family holding a voucher with an unexpired term (search time).

“Voucher”. Means a document issued by the DCA to a family selected for admission to the voucher program. This document describes the program and the procedures for DCA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

“Waiting list admission”. Means an admission from the PHA waiting list.

State Rental Assistance Program Rules

Subchapter 2. Tenant Set-Aside

5:42 2.1 TENANT SET-ASIDE PREFERENCES/TENANT SELECTION

(a) Vouchers will be available annually under the State Rental Assistance Program (S-RAP), to be allocated as described below:

1. Tenant Set-Aside Preference: Existing Waiting List. Thirty-one (31) percent of the vouchers will be set aside for assistance under the State Rental Assistance Program for persons or households on the Department of Community Affairs' existing Housing Choice Voucher Program waiting list. Selection from the existing waiting list does not include priorities for selection. The Department of Community Affairs shall utilize a "lottery-type process" to randomly select participants from its existing Housing Choice Voucher waiting list.

2. Tenant Set-Aside Preference: Elderly. Thirty (30) percent of the vouchers will be set-aside for the elderly population aged 65 and older. The Department of Community Affairs shall utilize a "lottery-type process" to randomly select participants from its existing Housing Choice Voucher waiting list.

3. Tenant Set-Aside Preference: Homeless Families with Children. Seventeen (17) percent of the vouchers will be set-aside for homeless families with children. A separate wait list should be developed from referrals provided by the Department of Human Services through the county-based administrative entities i.e., County Board of Social Services, Domestic Violence and Homeless Shelters.

4. Tenant Set-Aside Preference: Project Based Assistance. Seventeen (17) percent of the vouchers will be project-based for DCA/DYFS initiatives and other special needs. DCA's existing Housing Choice Voucher waiting list and developer referrals will be used for the project-based assistance set-aside. Project-based assistance will be administered under a separate set of rules.

5:42 – 2.2 TENANT-BASED RENTAL ASSISTANCE

(a) Annual income means all amounts, monetary or not, which go to or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

State Rental Assistance Program Rules

(b) Annual income includes, but is not limited to:

1. The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;

2. The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;

4. The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount .

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay.

6. Welfare assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

- i. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

State Rental Assistance Program Rules

- ii. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this subparagraph shall be the amount resulting from one application of the percentage;

7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

8. All regular pay, special pay and allowances of a member of the Armed Forces.

5-42 – 2.3 INCOME LIMITS

(a) Income limits are as follows:

1. Existing Waiting List. 75% of the participants admitted to the program must be extremely low-income families (30% of area median income as defined by region and household size), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD).

2. Elderly. 75% of the participants admitted to the program must be extremely low-income families (30% of area median income as defined by region and household size), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD).

3. Homeless Families with Children. 75% of the participants admitted to the program must be extremely low-income families (30% of area median income as defined by region and household size), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD).

4. The remaining set-aside preferences for applicants of the Existing Waiting List and Homeless Families with Children shall not exceed 40% of the low-income limits (by county), in accordance with the income guidelines published annually by the United States Department of Housing and Urban Development (HUD).

5:42 – 2.4 ELIGIBLE COSTS

The only eligible cost is rental assistance.

State Rental Assistance Program Rules

5:42 – 2.5 FLEXIBILITY OF ASSISTANCE

The State Rental Assistance Voucher is restricted to the State of New Jersey. Participants may exercise mobility options within the State.

5:42 – 2.6 VOUCHER LENGTH OF ASSISTANCE

(a) For Existing Waiting List participants and referrals for Homeless families, a rental subsidy under the State Rental Assistance Program will be for up to five years; less, if a Housing Choice Voucher becomes available. The program will provide a two-year extension based on extenuating circumstances.

(b) Elderly – A rental subsidy under the State Rental Assistance Program for Elderly participants, age 65 and older will be unlimited; less, if a Housing Choice Voucher becomes available.

(c) Term of Voucher: The initial term of the voucher for housing search is 60 days, with the possible extension of two additional 30 days.

5:42 – 2.7 HOUSING CHOICE

The State Rental Assistance Program shall promote integration of housing by race, ethnicity, social class, disability and income.

State Rental Assistance Program Rules

Subchapter 3. Housing Unit Requirement

5:42 – 3.1 HOUSING QUALITY STANDARDS

(a) The housing units located in buildings with 2 or less units selected by State Rental Assistance Program recipients must meet federal Housing Quality Standards set forth in 24 CFR 982.401 incorporated here in by reference. All inspections will be conducted by the New Jersey Department of Community Affairs.

(b) For housing units located in buildings with 3 to 49 units, the landlord must provide DCA with a certificate of occupancy completed within one year or DCA will conduct a Housing Quality Standards inspection.

(c) For housing units located in buildings with 50 or more units, the property owner must produce the Certificate of Inspection issued by the DCA Bureau of Housing Inspection pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A 55:13A-1.seq. Owners who have received a continuing penalty notice from the Bureau of Housing Inspection shall not be eligible to participate in the State Rental Assistance Program. For all housing units, subsidized by the State Rental Assistance Program, the tenant has the right to request DCA to conduct a Housing Quality Standards inspection.

5:42 – 3.2 BEDROOM REQUIREMENTS

(a) Bedroom requirements for the selected units will be in accordance with DCA's Standards used to issue voucher. The actual choice of unit size (i.e. the number of bedrooms) is not governed by this regulation.

(b) Vouchers are issued based upon family size and composition. These subsidy standards are applied consistently for all families of like size and composition. They are also consistent with the space requirements under the Housing Quality Standards for the Federal Housing Choice Voucher Program (see "Standards Used to Determine Acceptability of Unit Size" in Chapter 8 – NJ DCA – Administrative Plan for the Federal Housing Choice Voucher Program) and, therefore, meet the regulatory requirements **at 24 CFR 982.402 (b)(1)**, to "provide for the smallest number of bedrooms needed to house a family without overcrowding."

State Rental Assistance Program Rules

(c) Subsidy Standards for Standard Issuance are as follows:

Voucher Size	Household Size
0-bedroom	1
1-bedroom	1-2
2-bedrooms	2-4
3-bedrooms	4-6
4-bedrooms	6-8
5-bedrooms	8-10
6-bedrooms	10-12

State Rental Assistance Program Rules

Subchapter 4. Ineligibility

5:42 – 4.1 Denial and Termination of Assistance

(a) Citizenship. Applicants must meet requirements for citizenship and eligible immigration status, as contained in federal regulations, 24CFR. Part 5 subpart E incorporated here in by reference.

(b) Assistance may be denied or terminated at any time to an individual/and or family if a member of the family has engaged in any criminal activity, including drug-related criminal activity which includes both drug-trafficking and illegal use or possession of drugs whether in the unit or elsewhere on or near the premises.

1. A family member who has engaged in the illegal use of drugs may be required to submit evidence of participation in, or successful completion of, a treatment program to reside in the unit.

(c) Termination from Federally assisted programs. Assistance may be denied or terminated to an individual who has been terminated from the Housing Choice Voucher program within the prior 10 years.

(d) If an individual or family is found to have committed any fraud as a participant in the program, the rental subsidy will be canceled after 30 days notice to the landlord. The DCA reserves the right to recapture any overpaid subsidy.

(e) Assistance may be terminated if the household fails to adhere to the “Obligations of the Household” which are attached to this Chapter as an Appendix. Prior to any adverse action, there shall be an opportunity for an Administrative hearing in accordance with the Administration Procedure Act, N.J.S.A. 52:14 B-1 and the Uniform Procedure Rules, N.J.A.C. 1:1, to ensure that due process is afforded to the participant.

(f) If it is determined by a court of law that a participating individual or family has violated any lease terms and the court orders an eviction from the subsidized housing unit because of lease violations, the program will terminate subsidy when the eviction becomes effective.

(g) The family that is absent for a period of more than 180 consecutive calendar days shall have assistance terminated.

State Rental Assistance Program Rules

5:42 – 4.2 REMAINING FAMILY MEMBER

(a) General S-RAP Participant Population. If the head of household dies, the remaining family member will continue to receive a S-RAP subsidy for the duration of the five-year period, at which time DCA shall determine if the remaining family member is eligible for a his/her own voucher.

(b) Elderly remaining family member

1. If the voucher recipient dies, the remaining senior citizen in the home will continue to receive unlimited housing assistance.
2. If the voucher recipient moves to a federally assisted long-term care facility, the HAP will be terminated.
3. If the voucher recipient dies, and no other senior citizen remains in the unit, the HAP will be terminated.

State Rental Assistance Program Rules

Subchapter 5. Project-Based Voucher Program

Section 542-5.1 – Project-Based Voucher Program

(a) S-RAP requirements for the Project-Based Voucher Program are as follows:

1. Annual allocation shall not exceed 17% of the appropriation.
2. Eligible Uses shall include existing housing, new construction, and substantial rehabilitation
3. The term of assistance shall be up to 15 years, contingent upon continued compliance with Housing Quality Standard (CFR 24 982.401), and terms and conditions of the S-RAP contract and funding availability.
4. The project selection method
Shall include request for proposals from the following agencies:
 - i. Non-profit organizations (50 vouchers available)
 - ii. Low-Income Housing Tax Credit Projects
5. Eligible Tenants shall include DYFS families (100 vouchers will be set aside), working poor, elderly and special needs eligible families in place may have income up to 80% area median.
6. The program shall be targeted towards the working poor, Special Needs and DYFS households earning up to 40% of county median income, and elderly households.
7. No more than 25% of units in a building may have a project-based voucher or any other federal project-based housing assistance. Exceptions to this cap are:
 - i. Project-based dwellings units in single family (1 to 4 unit) properties
 - ii. Units in a multifamily building (5 or more units) set-aside for elderly or disabled families; and
 - iii. Units in a multifamily building set-aside for families participating in a voucher project-based program, or a public housing's Family Self-Sufficiency program who are in compliance with or have completed their Family Self-Sufficiency contract of participation
8. For under-occupied units the families may be eligible for S-RAP voucher if available, to relocate from a Project-Based unit to another unit. The family may remain in the unit for one-year, extended term to be determined on a case by case basis.
9. Standards for denial or termination of assistance are as follows:
 - i. Citizenship. Applicants must meet requirements for citizenship and eligible immigration status, as contained in federal regulations, 24CFR Part 5 subpart E.

State Rental Assistance Program Rules

- ii. Drug Activity Violations. Assistance may be denied or terminated at any time to an individual/and or family if a member of the family has engaged in any criminal activity, including drug-related criminal activity which includes both drug-trafficking and illegal use or possession of drugs whether in the unit or elsewhere on or near the premises. A family member who has engaged in the illegal use of drugs may be required to submit evidence of participation in, or successful completion of, a treatment program to reside in the unit.
- iii. Termination from Federally assisted Programs. Assistance may be denied or terminated to an individual who has been terminated from the Housing Choice Voucher program or other federally subsidized housing
- iv. Termination of Tenancy Assistance may be terminated if the household fails to adhere to the "Obligations of the Household" located in the chapter appendix at the very end. Prior to any adverse action, there is an opportunity to request an Office of Administrative Law hearing to ensure that due process is afforded to the participant, pursuant to the Administrative Procedures Act NJSA 52:14 B-1et, seq., and the Unified Administrative Procedures Rules.
- v. Fraud. If an individual or family is found to have committed any fraud as a participant in the program, the rental subsidy will be canceled after 30 days notice to the landlord. The DCA reserves the right to recapture any overpaid subsidy.
- vi. Violation of Lease Agreement. If it is determined by a court of law that a participating individual or family has violated any lease terms and the court orders an eviction from the subsidized housing unit because of lease violations, the program will terminate subsidy when the eviction becomes effective.
- vii. Family shall lose eligibility if absent from the unit for a period of more than 180 consecutive calendar days.

State Rental Assistance Program Rules

APPENDIX

Obligations of the Household:

1. Supply any certification, release of information or documentation which the program determines necessary in the administration of the program.
2. Notify the program before vacating the dwelling unit.
3. Use the dwelling unit solely for residence by the household and as the household's principal place of residence.
4. The household must not have any interest in the dwelling unit.
5. The household must not commit any fraud in connection with the program.
6. The household must not sublease or assign the lease or transfer the unit.
7. The household must maintain all tenant paid utilities.